



IFVAT 12000

In the United States Patent and Trademark Office

In re: Kub et al
Serial No.: 10/022,364 (NC 79,684)
Filed: December 20, 2001
For: Method for Transferring Thin Film Layer Material
To a Flexible Substrate Using a Hydrogen Splitting
Technique

Examiner: Fourson III, George R.
Art Unit: 2823

May 3, 2004

Appeal Brief

Honorable Commissioner of Patents and Trademarks
Washington, D.C. 20230

Sir:

This is an appeal from the final rejection dated Oct. 3, 2003, of claims 1-25. No claims have been allowed.

(1) Real Party in Interest

The real party in interest herein is the United States Government, acting through the
330:00 Secretary of the Navy.

(2) Related Appeals and Interferences

This application is not involved in any other appeal or interference known to the undersigned.

(4) Status of Claims

All pending claims, i.e., claims 1-25, except claim 17, were finally rejected in the Final Rejection dated Oct. 3, 2003. Although the rejections do not mention claim 17, claim 17 is mentioned in connection with the rejection of claims 10-16, 18, 19 and 21-25 and the Examiner

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material layer must have a smooth surface for the transition and bonding to the flexible substrate to be successful.

As was held in many cases, when prior art references require selective combinations to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself, see, for instance, Interconnect Planning Corp., 227 U.S.P.Q. at 551. Something in the prior art as a whole must suggest the desirability, and thus, the obviousness, of making the combination, see Lindemann Maschinenfabrik GmbH v. American Hoist and Derrick Co., 221 U.S.P.Q. 481, 488. There is no suggestion in the applied prior art to suggest the proposed reference combinations.

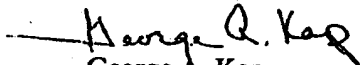
Conclusion

Reversal of the final rejection and allowance of claims 1-25 is requested.

Please charge our account #50-0281 with the appeal fee of \$330.00, or whatever is applicable.

Appellant is amenable to reduction of claims if that is of concern.

Sincerely,


George A. Kap
Reg. No. 22,898
Navy Associate Counsel